

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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OBA HASSAN WAT BEY, et al., :  
Plaintiffs, : 99 Civ. 3873 (LMM)  
- against - :  
THE CITY OF NEW YORK, et al., :  
Defendants. :

-----X  
ALBERT KELLY, et al., :  
Plaintiffs, : 01 Civ. 8906 (LMM)  
- against - :  
THE CITY OF NEW YORK, et al., :  
Defendants. :

-----X  
ALBERTO RIVERA BEY, :  
Plaintiff, : 01 Civ. 9406 (LMM)  
- against - :  
THE CITY OF NEW YORK, et al., :  
Defendants. :

-----X  
ALBERT KELLY, et al., :  
Plaintiffs, : 04 Civ. 1572 (LMM)  
- against - :  
THE CITY OF NEW YORK, et al., :  
Defendants. :  
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MEMORANDUM AND ORDER

McKENNA, D.J.

Plaintiffs' objections to Judge Ellis' orders of January 4, 2008 (verbal discovery orders), and January 14, 2008 (denial of "24 Hour Reports") are overruled. No showing has been

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made that those orders are clearly erroneous or contrary to law.  
28 U.S.C. § 636(b)(1)(A).<sup>1</sup>

Plaintiffs' objections to Judge Ellis' order of March 5, 2008 (negotiated plea agreements), insofar as it denied production of negotiated plea agreements, is overruled. The order in that regard has not been shown to be clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1)(A). Insofar as the order may be construed to mean (although it is not at all clear that this was Judge Ellis' intention) that, if defendants offer the summary chart referred to in the order or a similar summary chart in evidence, defendants are relieved of making available for examination or copying or both the documents underlying the summary, the order is modified to the extent that defendants will be required to so comply with Federal Rule of Evidence 1006 prior to trial, but not until a proposed joint pretrial order has been submitted to the Court.

The Court defers decision on Judge Ellis' order of May 23, 2008 (records custodian). The Court would expect defendants to be able to agree that the produced documents are admissible (to the extent relevant) as records kept in the ordinary course of business or as public records, so that the need for a record custodian to testify at trial would not exist. The parties

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<sup>1</sup> Parenthetical descriptions of orders are for ease of identification and do not represent complete descriptions of the orders.

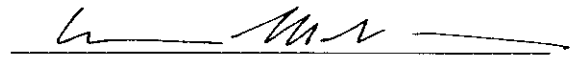
are to confer on the subject and advise the Court in writing not later than August 8, 2008 whether the issue is resolved.

\* \* \*

The Court believes that all outstanding objections to rulings of Judge Ellis have been ruled upon by this Court. If that is not the case, the Court is to be notified in writing, not later than July 24, 2008, of the objections outstanding; the ruling of Judge Ellis, the objections, and all supporting and opposing papers are to be identified by Docket number.

SO ORDERED.

Dated: June 26, 2008

  
Lawrence M. McKenna  
U.S.D.J.